JIM IRVING.

He Remains Under the Ban of the Law, and the Law Will Try Him on Wednesday Next.

A TRUE BILL.

Dowley, the Deputy Marshal, Seriously Injured.

The Days of Fort Lafayette Played Out.

GEN. M'DOWELL INTERVIEWED.

Irving and Tammany in the Same Boat.

The whole absorbing event yesterday in the United States Court buildings, in Chambers street, was the case of the late member of the Sixteenth district and later of Ludlow street, Jim Irving, the irreprespart of counsel for the accused, and some further action hostile to the ex-member on the part of the prosecution would be taken, a large crowd filled the ourt room the moment the case was called on. Judge Woodruff presided on the occasion. The facts of this case—the alleged assault by Irving on Deputy Marshal Dowley and the extraordinary conduct of Davenport, the Commissioner, in relation thereto-has excited a great deal of public interest. Counsel for defendant was on hand at an early bour, and the impression of that gentleman at that time (half-past ten o'clock) was that the defendant would be admitted to bail

WITH THE CONSENT OF THE GOVERNMENT, so that the accused might be enabled to go on and have an examination, as was his right. But an event transmired in the course of the day that belped very much to get the government out of the difficulty in which it had been placed by the highbanded action of Davenport on the previous day. The Grand Jury found a bill of indictment against Mr. Irving, which at once superseded the action of the Commissioner and brought the case before the superior branch of the Court. Had the question come before Judge Woodruff on the Issue raised in the writ of habeas corpus, it is more than probable that judicial censure would have been pronounced upon the Commissioner for having so impudently ignored the fact that irving nad been, at the request of the Assistant District Attorney, in another stage of the case, discharged by Commissioner White on his own recognizance. The subjoined report shows that the whole proceedings have taken quite a different shape than they presented yesterday. THE HABEAS CORPUS.

At eleven o'clock counsel for defendant stated in reply to the Court that he was in hopes that it would t be necessary to trouble His Honor with the motion in reference to the return on habeas corpus in this case. After a consultation with the District Attorney, he believed an arrangement would be arrived at that would be satisfactory to both parties. At this time the arrangement contemplated by Mr. Spencer was that he would waive his legal right in the case, and give ball for Mr. Irving under the war-

rant issued by Davenport,
Judge Woodrupp asked if the motion would take long. If so, it would interrupt a case that was on

The District Attorney said the motion would not The case was then adjourned until half-past one

At that hour S. W. PURDY, United States District Attorney, moved that the defendant Irving, who

had been indicted, be arraigned for trial. Mr. Irving then stood up at the bar and pleaded Mr. SPENCER moved that the defendant be admit-

led to ball and that the Court fix the amount. They were anxions for a speedy trial. Mr. Irving alleged that he was innocent, and in the meantime this indictment had been brought against him. He asked the Court to fix such oall as the Court, under the circumstances, deemed proper. He (counsel) would immediately prepare for trial, which, he supseq, would take place at once.

Mr. Porny said that in regard to ball he was not prepared to argue that motion, for the reason that he desired to present to the Court certain affidavits respecting the present condition of the deputy marshal, alleged to have been injured by the defendant. His condition yesterday was critical, and at one time

HIS LIFE WAS DESPAIRED OF. Be apprehended it would be proper to ascertain the nature of his injuries before bail was taken for the

Be apprehended it would be proper to ascertain the nature of his injuries before bail was taken for the defendant. He had not been able to take affidavits signifying the condition of the deputy marshal, but he would have them on Monday.

Mr. Spencer observed that several persons saw this Deputy Marshal last evening, and they were of opinion that his condition was not critical. If he Died the offence alleged against the defendant would be an offence against the State, and, that being so, the matter would be altogether removed from the jurisdiction of the Court. Mr. Irving was willing to give bail, and it he was sentenced to be hanged on Monday morning at twelve o'clock, and passed his word to come here, he would do so. (Laughter.) He was an Alderman and a gentleman of position, and he could bring the best bail to be found in this city.

Mr. Noah Davis, United States District Attorney, remarked that the lowest punishment for this offence was two years' imprisonment and \$3,000. If the death of the oldeer ensued, and the matter then came under the jurisdiction of the State Court, it would be the duty of the jurige to nx such bail as would secure the attendance of the defendant before the State Court. If the life of the Deputy Marshal were really in jespardy, he would most strenuously mass that the defendant should not be admirted to bail. If there was no such danger, then the question of ball would be properly before the Court.

Mr. C. Donohue, of counsel for defendant, said

the COURL.

Mr. C. DONOHUE, of counsel for defendant, said the only indictment against the defendant and now before the Court was for an assault upon the Deputy Marshal, and, if there was an allegation made that the man's life was in danger, the question must come before the Court as to whether the case should not be disposed of in the State Court.

After some further discussion of a desultory character.

Judge Woodrupy observed that there would be Judge Woodruff observed that there would be time between this and hali-past three o'clock to ascertain the condition of the Deputy Marshal, and that could be made the foundation of such action as might then be deemed proper.

Mr. Spencer—Will Your though two bermit me to ask where this Deputy Marshal lives? If I can find that out I shall send a physician to see thin.

If I can find that out I shall send a physician to see him.

Mr. Davis replied that he had been just infor med that the man lived at No. 230 East Broadway.

The proceedings were then suspended until half-past three o'clock.

On the reassembling of the Coart counsel for the defendant again opened the matter to the Judge, stating that since he had come into Court he understood that it had been stated that two physicians, Dr. Pheips and Dr. Ferguson, who had been in attendance upon Dowley, had been discharged because, it was alleged, they were favorable to the defendant, and Dr. Abbott and Dr. James called in their place, He (Mr. Spencer) had sent for Dr. Pheips, but he had not yet come into Court.

An affavit, swent to by a brother of Deputy Marshal Dowley, was then read, to the effect that the injured man was in a more critical position to-day (pesterday) than he had been for some days past, I hat he was only in a semi-conscious state at intervals, and that be could not take food. There were six afferent wounds on his bead, and, from what the detendant had heard, he believed the death of Dowley would be the result if erysipelas should set In.

Dr. Place testified that he was a physician and sur-

Dowley would be the result if crysipelas should set in.

Dr. Place testified that he was a physician and surgeon; he rosides at 307 East Broadway, and was now practising his profession; he was called in that atternoon to see the injured man, J. E. Dowley, and found his mental condition exceedingly depressed; he was suffering from six scalp wounds on the skull, such as might have been inflicted by kicks from a boot or some blunt instrument; there was an intised wound on the right cheek; his pulse was depressed, and he was not out of danger.

In reply to counsel the witness said the skull was not fractured; he did not think the man would die; thought he would recover if crysipelas did not set in; the probabilities were decidedly in layor of his recovery.

his recovery.

Counsel then urged that a case had been made out entitling Mr. Irving to ball, especially as he understood that the man alleged to have been injured with fall to identify him as the person who committed the assault upon him.

District Attorney Davis said the only question to

duty were of such a character that the Court could say the ends of justice would be subserved by re-taining the Drisoner in custody until it was ascer-tained the party beaten was free from danger.

After hearing Mr. C. Donohue, of counsel for de-endant, on that branch of the case as it transpired

After hearing Mr. C. Donohue, of counsel for defendant, on that branch of the case as it transpired
before Commissioner White,
Judge Wooddry said:—I think it proper to admit
the defendant to bail.
After some discussion the Judge fixed the bail at
\$10,000.
Mr. John J. Bradley, City Chamberlain, and Mr.
Forbes Holland then came forward and tendered
themselves as bail for Mr. Irving. Mr. Bradley testified that he was half owner with Mr. Holland of
two lots of land, Nos. 8 and 10 Thirty-first street, on
which a livery stable had been built: the property
was assessed at \$20,000, but he supposed if he
wished to sell it it would bring \$75,000; there was
no encumbrance upon it; he had no other real estate; he had some personal property, about \$25,000
or \$30,000, in railroad bonds and bonds secured on
the building known as Tammany Hall; he did not
os; any debts.
Mr. Fothes Holland was also examined as to his
qualification as bondsman.
The District Attorney said he could not object
to the bonds of these gentiemen.
They accordingly signed the bond and Mr. Irving
was discharged from custody.

Mr. IRVINO'S TRIAL.
The District Attorney intimated that he would,
on Wednesday next, move on the trial of the defendant Irving.

Mr. Spencer said he would be ready for trial

on wednesday bext, move on the trial of the descent ant Irving.

Mr. Spencga said he would be ready for trial whenever the man alleged to have been injured could be in attendance, as the defendant was en-titled to his evidence.

The Court then adjourned.

GENERAL M'DOWELL INTERVIEWED.

Among the more exciting incidents of the day in connection with Jim Irving's "little unpleasantness" manding the Military Department of the East, in the Court buildings. Fort Lafayette at once loomed up in the imagination of all on seeing him, and a HERALD reporter put for the General of Bull Run Davenport has not forgotten or learned anything of late, and he would have consigned poor Irving to the next best thing-sent him to Ludlow Street Jail the night before, like Eugene Aram, with gyves on his wrists, and went himself to hunt up General McDowell, in hopes that so terrible General McDowell, in hopes that so terrible a criminal as the ex-representative of the sixteenth Assembly district would be by military authority consigned to a more occure fastness than the "stone jug" in I-malow street.

THE INTERVIEW.

REPORTER—General McDowell, I believe?
GENERAL—Yes, Sir.
REPORTER—General, have you consented to the requisition to put Mr. Irving in a United States fort?

GENERAL Might Leak who are now are

requisition to put Mr. Irving in a United States fort?

GENERAL—Might I ask who are you, sir?

REPORTER—I am a reporter, General.

GENERAL (laughing)—Well, I don't want to be interviewed on the subject. (To Mr. De Kay)—Come here and save me from this gentieman.

Mr. DE KAY—Whoever wrote in the papers about the proceedings it this matter should not have done it. It was premature. Nothing has been done in the case yet. When any information is to be given to tice papers it will be given to all of them.

REPORTER—General, pray excuse me. This is a matter of great public interest, inasmuch as if the man is transferred to a United States fort a great precedent will be established. I don't want to "interview" you. I merely wish to ask you one question. Do you believe that it would be proper or expedient, at the present juncture, when there is great political excitement, to transfer a prisoner from the county jail to a United States fort in times of peace, there being no general riot or disturbance contemplated by any body outside the United States building?

GENERAL (Dositively)—I do not sir.

building?

GENERAL (positively)—I do not, sir.

REPORTER—Do you believe there is any necessity for such extraordinary action?

GENERAL—I do not, sir. (To the Assistant District Attorney)—Come here and answer the very questions which I asked you a while ago for this gentleman. It is curious he has hit on the same questions myself.

The General therefore.

as myself.

The General then left, under the impression that
he had not been interviewed, and the reporter retired, followed by the wrathful eye of the official.

CORONER YOUNG AND JIM IRVING.

Application for an Ante-Mortem Examination

of Dowley Declined. Mr. Charles Donobue, counsel for Mr. Irving, ac companied by several of Irving's friends, called yesterday afternoon upon Coroner Nelson W. Young, at his office, in the City Hall, and requested him to go to Dowley's residence, 209 East Broadway, and, if necessary, to take his ante-mortem statement. Mr. Donohue did not know that the deputy marshal was in a dangerous condition, but said it had been so represented to him by the prosecuting officers in the United States Court, where a motion was pending to admit Mr. Irving to bail. Counsel declared that he did not believe Dowley Counsel declared that he did not believe Dowley was in a condition to require the Coroner's services, but said he had no other means of ascertaining except by sending an official there; he did not know the dector in attendance upon the wounded man, and said if he did he did not believe any information could be obtained by seeing him.

In reply, Coroner Young said he had no right to go to Mr. Dowley's house for such a purpose without receiving a certificate from the attending physician or being officially notified by the police of the precluct.

Mr. Donohue sought to convince the Coroner that

it was a part of his duty to wait upon Dowley and listen to what he had to say, but Coroner Young in-sisted he must first receive official notification before

moving in the matter. The counsel then wished the Coroner to name a doctor connected with his onice who could go and see Mr. Dowley, but this was also declined; where upon Mr. Donohue left the office, and so the matter rests.

GENERAL SIGEL'S THANKS.

TO THE EDITOR OF THE HERALD :-DEAR SIR-In this day's HERALD I find a card from General Sigel thanking the gentlemen who acted as watchers at the canvass on the evening of ejection. I would like to state a few words in reply fulness of those gentlemen he speaks of would be of very little account if the reform democracy had of very little account if the reform democracy had not united upon him as their candidate. I think it is to them his thanks are due, and not to the watchfulness of the gentlemen he refers to. I am one of those who voted for him, and caused a good many others to do likewise, and for no other purpose than to break up the Ring and have an honest and faithful administration of affairs, I rejoice in Mr. Sigel's election and the discomfiture of the Tammany candidates. Yours.

many candidates. Yours, A DAILY READER
of twenty-five years' standing.

A SPECULATIVE COTTON FIRM FAILS.

It has been quite generally known for some time been operating somewhat freely for a rise in cotton. receiving their inspiration as to what would be the future course of the market from the crop estimates disseminated by the Agricultural Department at Washington. This bureau underestimated the last crop by nearly one and a half million bales, and their prognostications as to the probable yield of the growing crop have been received this year with very many grains of allowance by the trade at large. In the absence of Mr. Hunt, who has been "doing" but the concern made numerous unfortunate speculative ventures, which terminated yesterialy in a suspension. Mr. Hunt is known to be of vast recuperative energy, which will quickly restore him to that position which he has been deprived of by the mistakes of others. disseminated by the Agricultural Department at

Suicide of an Anti-Temperance Man. Coroner Jones was notified yesterday to hold an inquest on the body of Michael Sweeney, who committed suicide by cutting his throat. The unfortu nate man, who had been drinking deeply of the poisonous bowl for some time past, entered the blacksmith shop of Daniel Ward, corner of Twenty-eighth street and Third avenue, and, before he could be prevented, took a penknife from his pocket and drew the blade across his throat, indicting a mortal wound. Deceased resided at 254 Pearl street,

A During River Thief. Captain Kelly, of the schooner Lewis Walsh, which vessel is lying at the wharf, Wallabout basin,

was aroused at an early hour yesterday morning by was aroused at an early hour yesterday morning of a noise in his cabin, when he was confronted by a burgiar, who levelled a revolver at his head and demanded "his money or his life." Preferring to part with his money in lieu of his life he delivered to the custody of the desperado his purse, containing \$65, with which the feilow decamped.

THE APACHES AND THE INDIAN COMMIS-SION.

WASHINGTON, D. C., Nov. 8, 1871. TO THE EDITOR OF THE HERALD:-

in the report in yesterday's HERALD of an interview with me last week I am made to say, or to intimate, that the Indian Commissioners were responsible for the hostility of the Apaches. This I did not intend, but to say that, in my judgment, few, if any, of the citizens of Arizona were more responsible for this hostility than the Peace Commissioners themselves. I am sure the error was through oversight on the part of your courteous reporter and will cheerfully be corrected. Very respectfully.

porter and will cheerfully be corrected. Ver respectfully, RICHARD C. MCCORMICK, M. C., Arizona.

THE COURTS.

A Diamond Smuggling Case-A Chapter of Communist History-Condition of the Marine Court-The Noe Will Case-Business in the General Semions.

UNITED STATES SUPREME COURT.

A Suit Growing Out of the Bombardment of Greytown-Foreclesure of Mortgage of a Kentucky Railread-The Proper Construction of a Quartermaster's Contract.

No. 211. Pe rin and Perrin vs. United States .-Appeal from the Court of Claims.—The appellants claimed compensation for property destroyed at Greyto on, in Central America, by the bombar", ment of that place by the sloop-of-war C_rane, in July, 1854. The appellants were then and are now French subjects, and, then and are now French subjects, and, as appears by their petition, their government declined to press the claims of French subjects for indemnity for property destroyed by that bombardment. The Secretary of State having been applied to, also relused compensation, on the ground that the government is not liable for such damages. The Court below disminsed the petition on demurrer, holding that it had no jurisdiction of the subject matter, and that foreigners domiciled in foreign countries must share with the citizens of that country in fortunes of war. The appeliants insist here that war did not exist with Greytown at the time of the bombardment, and that therefore this theory is erroneous. War could not exist with Greytown and it did not exist with Nicaragua, and hence the bombardment was not in the exercise of belligerent rights, because, if there was no war, there could be no exercise of belligerent rights.

No. 202. New Orleans and Ohio Ratiroad Com-

No. 202 New Orleans and Ohio Railroad Company et al. vs. Mellen, Trustee, and the United States .- Appeal from the Circuit Court for Kentucky .- In a settlement of accounts between the United States and one Thornberry the latter transcoupon bonds of the railroad company, trust, to secure his indebtedness cured by morgages given in 1858 and 1860, upon all the property of the company, real and personal, including personal property to be acquired thereafter, some of the coupons being overdue. Meilen and the United States commenced suit to foreclose the mortgages, making Thornberry and all the bondholders, and one Frimble, trustee of the mortgages, defendants. Trimble was ordered to defend on the part of all the bondholders not named and against whom process could not issue. The mortgages were foreclosed and the bonds became the property of the United States. On appeal it is here contended that the Court below had adjudicated the question between the government and the bondholders without any pleadings on which a decree could be based. Trimble, it is said, did not so represent certain unnamed bondholders as to bring them within the jurisdiction of the Court. It is also insisted that there was error in the disposition of the case on the merits, even if the matter was before the Court, so as to bind all parties by the decree.

No. 206. Scott vs. United States.—Appeal from cured by moregages given in 1868 and 1860,

No. 206. Scott vs. United States .- Appeal from the Court of Claims. - This is an appeal from a judgby Scott on a contract with the government made by colonel Noble, Assistant Quartermaster, by which Scott agreed to furnish transportation to the government in the West in 1866. A balance was alleged to be due, which the government declined to pay, claiming that the amount asked was for transporta-tion not within the route for which the contract was made. The Court below found the defence well founded and the judgment was for the United States. The appeal insists that there was error in the construction of the contract.

No. 203. Townsend, Executor, &c., vs. Choppello .-Appeal from the Circuit Court for the district of Wisconsin.—The appellant flied his bill to foreclose a mortgage and bond executed by the appellees to Frederick Bronson, of New York, executor of Arthur Bronson. The mortgage and bond were executed to secure a part of the purchase money of certain premises in Lafayette, Wis. One Bostwick. certain premises in Lafayette, Wis. One Bostwick, of Galena, Ill., by and through whom the business was transacted, was the agent of Bronson, and as such received several instalments as they became due, and receipted for them in the name of Bronson. Bostwick failed, having a portion of the money so received in his hamis. The appellant refused to credit the appellees and mortgagers with the money in the hands of Bostwick, and alleges that Bostwick was not the agent of Bronson and was not authorized to receive payments except the first one. The court below found that the agency existed and that the money in Bostwick's hands should be credited to the appellees. The appeal insists that the Court below erred in its rulings upon the evidence and in its conclusions as to the facts.

UNITED STATES DISTRICT COURT.

Alleged Diamond Smuggling-A Very Intethe Communists. Before Judge Blatchford,

The United States vs. Elie and Gustav May.—Yes-terday we published a brief reference to this case, in which an action had been instituted by the United States against the defendants for the purpose of condemning a quantity of diamonds and other precious stones, worth about eight thousand dollars, alleged to have been smuggled into this country from Europe. The facts, as developed defendants had been jewellers in Paris, under the name of Henry May & Sons, and were located there in business when hostilities broke out between France and Germany. They were officers in the French army during the war. Subsequently, when the Communist rising took place, Gustav was Quartermaster General in the Communist army, and Elle was Division Quartermaster. Being intelligent and well educated gendemen, they wrote for the journals, including Rochelort's paper and the Marsedaise. It is understood that they intend to write a history of the two recent eleges of Paris. They deny that the Archilshop of that city was killed by order of the Communists, but maintain that he was murdered by a mob, and that the soldiers of the Commune endeavored to save him from death. The day before the termination of the war the Mays field to Switzerland, where, in a short time after, they were joined by a friead from Paris, who brought on from that city aquantity of precious stones belonging to the defendants. This friend delivered up the stones to the Mays, who sewed them in a slik jacket or shirt for safety. The defendants made their way mto Germany and being able to speak the German language, they succeeded in getting through the lines of the German arrested at Paris and the bulk of ineir property confiscated by they heard that their mother had been arrested in Germany and England under assumed names, believing that if they gave their real ones they would be taken back to France under the Extradition law. When they arrived in New York, carrying with them the diamonds in question, they also went by feigned names, feeling, as they did in Germany and England, that the disciosure of their real names would expose them to the danger of being removed out of the country. But when they ascertained that they were not charged with any political offence, but only with smurgling, they disclosed their real names, and did not offer any opposition to the officers of the country. But when they ascertained that they were not charged with any political offence, but only with smurgling, they disclosed their real names, and did not offer any opposition to the officers of the country. But when they ascertained that they were not charged with any political offence, but only with the w the Communist rising took place, Gustav was Quartermaster General in the Communist army, and consultation with the officers of the customs, the statement of the defendants was sustained, he would not further press the case. The defendants story was in the main confirmed, so far as it related to their connection with the diamonds in New York, and the jury rendered a verdict restoring the diamonds to the owners, the latter of course undertaking to pay the proper and necessary duties upon them.

taking to pay the proper and necessary duties upon them.

The testimony of the defendants, which reached back to their possession of the diamonds in Paris, went to show that the Versailes troops, after their entrance into the capital committed great atrocines; that they tied together Communisis in batchies of forty or fifty at a time and shot them down with mitrailieuses; that many of those who were simply wounded in this way were shot to death with pistols or stabbed with bayonets, and that others who escaped from the scene of the butenery were only enabled to crawi away into back lanes and cellars to die of their wounds.

SUPREME COURT-GENERAL TERM. Candidates for the Bar.

On Tuesday next the committee appointed to examine candidates for admission to the bar will meet and commence the examination of those offering themselves for admission as practitioners in the

SUPREME COURT-CHAMBERL

Decisions. By Judge Brady. Bunn vs. Messinger .- Motion denied, with liberty to renew on payment of \$10 costs. Croily vs. Horan.—injunction dissolved; order to be settled on notice. Rosenheim vs. Frank,—Motion denied. See opinSUPERIOR COURT -SPECIAL TERM. Decisions By Judge Spencer.

Mayer vs. Schneider, - Order granted. Crane rs. Grane. - Reference ordered.

Alzea vs. Freese.—Order granted.
Fros' vs. Pittlard.—Order dismissing complaint.
Parmtorf vs. Eliss.—Motion denied.
By Judge Barbour.
Toblas Simon vs. The Narragansett Fire Marine
Company.—Memoranda for counsel.

COURT OF COMMON PLEAS-SPECIAL TERM. Decisions. By Judge Loew.

Spetman vs. Lindheim. - Motion granted, with \$10 costs to plaintiff to abide event. Francis J. Doyle vs. Lucretia Doyle,-Decree of

divorce granted.

Rowe vs. The United States Fire Extinguishing Company.—Motion that the appellant give further security on appeal denied, with \$10 costs.

Sutherland, Receiver, vs. Marine National Bank.—See opinion.

MARINE COURT-PART L.

An Action for Rent. Before Judge Gross.

codling vs. Dennison .- The defendant hired from the plaintiff a stable in Forty-sixth street at \$100 a month, payable monthly in advance, from the 1st of May, 1870. The contest is as to the duration of the term for which these premises were hired. The term for which these premises were hired. The evidence shows conclusively that there must have been a misunderstanding between the parties as to the duration of the lease, and under those circumstances I must be controlled by the statute, which makes a lease of premises for a term not particularly specified a lease to the next ensuing 1st of May, bunder that view there would be due to piaintiff by defendant \$100 the 1st of July and \$100 the 1st of August. In August plaintiff resumed possession of the premises, and I find that he then terminated the previously existing tenancy. The piaintiff is endited to recover \$175, \$25 being deducted for the value of fixtures left by defendant on the premises.

Action for Wages.
Cheshire vs. O'Neil et al.—Plaintiff, a milliner, was engaged by defendants and discharged before ner term expired. She sues to recover for the time she was without employment. The defence is that plaintiff was only taken on trial and did not suit. Judgment for plaintiff for \$125.

MARINE COURT-PAST 2.

hameful Condition of the Court Rooms. At the opening of Court yesterday morning Judge Joachimsen announced that in consequence of the many complaints made by counsel, witnesses and jurous of the condition of the room he should be forced to adjourn until Wednesday. There being no fire, carpet nor locks on the doors this adjoura-ment should go on from day to day, with-out trying any cases, until better accommo-dations were provided. The gas, said in shonor, is kept burning throughout the day in all the branches of the Court in order to heat the rooms as far as possible, which expense is as great, if not greater, to the county than to provide stoves, fuel and carpeting.

After the warming the reform party gave the After the warming the reform party gave the After the warm the court rooms and not freeze out all the law and justice in the county.

SURROGATE'S DECISION.

The Noe Will Case. In the matter of the probate of a paper, pro-Isabella Carr Noe, deceased, Surrogate Hutchings

delivered this decision yesterday:—
The testatrix died on the 19th of August, 1870, the day after the alleged execution of the will, and eight months after her marriage. She left neither lather, mother, brother nor sister surviving, her nearest relation being her aunt, Mrs. Callana. (the lather, mother, brother nor sister surviving, her hearest relation being her aunt, Mrs. Calinha, the sister of her mother, and some cousins, who reside in Philadelphia. By them the admission to probate of the will was contested, the allegations presented against the validity of the paper as a will being me had incapacity and fraud and undue influence exercised by the proponent, Daniel W. Noe, husband of the testatrix, in whose layor the will was made. Great stress was laid by contestants on the fact they claimed to have e tablished that the testatrix drank immoderately of wines and spirituous liquors, and to such a degree as to make her incompetent to make a will. The Surrogate, in delivering his decision, said, "I cannot sustain any such new and dangerous theory as has been advanced by the contestants that probate should be refused because the testatrix was at times addicted to the use of intoxicating liquors. I find that she was entirely rational at the time or the execution of the will, and appreciated the meaning of the document which sine signed. It appears to me that the paper waich is proponded for probate is the least will and ustanent of the decement which sine signed. It appears to me that the paper waich is proponded for probate is the least will and ustanent of the decement which sine signed. It appears to me that the paper waich is proponded for probate is the least will and ustanent of the decement, was signed by her free from any undue influence on the part of her husband, and that it was executed in accordance with the requirements of the statute, and that she was at the time of sound and disposing mind."

COURT OF GENERAL SESSIONS.

A Young Highway Robber Sent to the State Pr.son-Jadge Bedford Defines His Position Regarding Witnesses Kept in the House of Detention-the Foley Homicide.

Before Judge Bedford. The most important case disposed of in this Court yesterday was an indictment for tobbery in the first | cles sent and the donors thereof. The "sisters" degree against Henry Aschenner and Louis Leppard. The prisoners demanded a separate trial and the District Attorney chose to try Aschenner drst. The complainant, Michael Frentz, testified West Twenty-sixth street. that about three o'clock in the morning of the 8th of October he was on his way home, and while of October he was on his way home, and while passing through Clinton street was met by the defendants. Leppar't took hold of his gold watch chain and asked what time it was. Frentz told him to let go, that he did not want to have anything to do with him; whereupon Leppard took hold of him by the throat and Aschenner put his hand over his (Frentz's) mouta and struck him in the eye. He struggled and screamed for the police, Leppard having succeeded in getting away with part of the gold chain. The next morning he identified the prisoners at the station house. Officer Burns, who saw the occurrence from across the street, swore that Leppard grabbed the complanant in front, and that the other prisoner "punched" him; that he pursued Leppard through a number of streets and lathed to capture him, but shortly after arrested him in his own house and found the broken chain. The officer contradicted the complainant, who said that Aschenner ran away the policeman stating that the accused stood on the corner. The officer shortly after went to the prisoner's house but did not find him in. Upon returning, however, later in the morning he found him there and made the arrest.

The prisoner was sworn in his own behalf and denied the main lacts sworn to by the witnesses for the people. He said that Leppard and he and the officer went into a lager beer saloon and played dice for drinks, and subsequently Leppard stood upon the corner and taked to the complainant. He Leppards struck the man, who followed him, and while he was chasing him he (the prisoner's good passing through Clinton street was met by the de-

while he was chasing him he (the prisoner) struck Frentz.

Witnesses were called to prove Aschenner's good character, and a certificate was read from his employers, Messrs. Vosburga & Co., showing that he had been a steady workman for live years.

Officer Burns was recalled and positively denied the statement of the prisoner that he went in to dribk with him. The Court suspended the trail for three-quarters of an hour to enable the counsel to bring the lager beer saloon keeper to prove that the officer was in there. Christian Waiz arrived and swore that the officer and the men came into his place and played dice for lager beer. On crossexammation it came out that the officer had compained against walz and his partner for violating the excise law.

The jury rendered a verdict of guilty, coupled with a strong recommendation to mercy. Judge Bedford said he would respect the suggestion of the jury and impose the lowest sentence, which was imprisonment in State Prison for five years.

REMARKS OF THE COURT ON THE DETENTION OF WITNESSES.

Judge BEDFORD said:—I am going to follow the excellent suggestion made by Judge Barnard, of the Supreme Court, which I believe to be eminently proper, that all cases where witnesses are confined in the House of Detention must have proference on the calendar; and whenever the accused who may be out on ball fails to answer the ball must be promptly forfeited. The practice of locking innocent men up because unable, by reason of their poverty, to find security for their attendance in court is a great hardship, and I shall do everything in this Court to releve them.

Judge Bedford has touched an evil in our judicial system which, it is hoped, he will lend an his influence to cradicate.

Francis Lynch pleaded guilty to an assault, with intent to commit robbery, the charge being that on the 15th of October be assaulted Bernard H. Fienken, while passing through Chryste street, and snatched a gold watch. His floon remanded him for sentence.

snatched a gold watch. His Honor remanded him for sentence.

Robert Morris, who, on the 13th of October, stole a sliver watch, valued at \$15, from Ira J. Loucks, pleaded guilty to petty larceny, and he was sent to the Pententiary for six months.

A BOY PEDLER ACQUITTED OF A CHARGE OF STABBING.

John Fries, a vouthful pedier of lemons, was tried for stabbing a boy, named John Becker, with a small knife. It was satisfactorily shown to the jury that the accused was attacked and beaten by a crowd of boys, and that he was justified in defending nimself. A verdict of acquittal was promptly rendered. A ONE-ARMED SOLDIER ACQUITTED OF AN ALLEGED FRACNICUS ASSAULT.

Maiachi Buckley was placed on trial charged with perpetrating a felonious assault and battery upon michael Glennin on the 4th of last september. The compiginant, who was a watchman connected with the Hudson River Hallroad depot, testified that on

the night in question the prisoner was around where he was watching freight, and refusing tego away they had some word, and Buckley stabled him in the left breast. Wound was inflicted, and from loss of blood he, was confined to the hospital eight

the left breast. A wound was inflicted, and from loss of blood in was confined to the hospital eight days.

The scheed, who was a one-armed solder, told a wid-ay different story, stating that he was attacked and beaten by Glennin and that he used he knife to protect himself. The jury were favorably impressed with the frank and apparently truthful manner of the prisoner. Judge Bedford, in his charge, said that the prisoner had been in the Tombs ten weeks, and after hearing the 'estimony he was led to say that if he were on the jury he would acquit the defendant. The jury evidently concurred with the City Judge, for they not only rendered a verdict of not guilty, but the foreman said, "I think the prisoner ought to be compensated for his imprisonment."

THE FOLEY HOMICIDE.

Assistant District Altorney Sullitivan moved on the case of Daniel Foley, charged with killing William O'Brien.

Mr. Wm. F. Howe, counsel for the accused, rose and proceeded to give a clear narrative of the facts, stating that Foley was over sixty years of age, and that he was wantonly attacked by O'Brien, the deceased, in his own room, and used the knife in defence of his life. He (Mr. Howe) said that it was distinctly understood that a plea of manslaughter in the third degree should be taken, but the Acting District Attorney now declined to pursue that course,
Judge Bedford remarked that if such a state of

Judge Benford remarked that if such a state of facts was proved he would not sentence Foley.

Mr. SULLIVAN said that in a case of homicide he would prefer to have a jury take the responsibility of passing upon the facts.

Judge BEDFOND said that he would not enter upon
the trial of a murder case late on Friday afternoon.

The prisoner was remainded and will be fried next

COURT OF APPEALS CALENDAR.

ALBANY, N. Y., Nov. 10, 1871.

ALBANY, N. Y., Nov. 10, 1871.

This Court meets at the Capitol on Monday, November 13. The following is the catendar for that cay:—Nos. 635, 633, 318, 363, 364, 366, 369, 871. No. 635 is The People vs. Purcell, and No. 636 is McCord vs. Tae People.

TOMBS POLICE COURT.

A Robbery with Violence by a Colored Man in Baxter Street-Stealing from a Mediste in Fourteenth Street-Thieves and Receiver Held to Answer. Henry Johnson, of No. 40 Baxter street, a colored

man, with a record of the worst description. was yesterday afternoon arrested by officer Fitzmaurice, of the Sixth precinct, charged with knocking James Macdonald down in front of the above address and stealing from his pocket \$100 in United States bills. The complainant only came to New York a few days ago from New Jersey, intent, it seems, upon a spree. Yesterday he had been drinking in a house in the rear of Johnson's place, and as he was leaving in a state of only seint-consciousness, Johnson and another celored man met him. After inquiring of him as to what he intended to do, they hustled him, knocked him down, and while the other man held him oy the throat Johnson stole the money from his pocket and left him immediately. Macdonald soon discovered how he had been treated and without delay repaired to the sixth precinct station house and gave a description of the robbers. So quickly did the officers pounce upon the man that he had no time to dispose of the money before the arrest, and, consequently, when he was secured \$57 in notes similar to those lost by Macdonald were found in his possession. On being placed in the dock at the police station he was instantly recognized by the complainant, who also said the money found on Johnson was part of what had been stolen from him. The rough usage administered to "Mac" by the darkies must have frightened in meansiderable, for he had very little appearance of intoxication at the time the case was brought into court. Judge Hogan tully committed the prisoner for triat at the General Sessions. rear of Johnson's place, and as he was leaving in a

brought into court. Judge Hogan fully committed the prisoner for triat at the General Sessions.

STEALING A COSTLY POLONAISE.

Harriet C. Wilson, a modiste, of No. 38 West Fourteenth street, stated that on election day she had a snow case broken open and a magnificent silk polonaise taken therefrom, worth at least \$75. John Frennan, of No. 100 Second street, informed her that the guilty parties were William H. Miller and Hiram Hoffman, both residents at the corner of Bleecker and Mulberry streets. On being arrosted Miller admitted to Brennan that he had sold the said silk dress to one John Nickin, of 82 Mott street, for \$10. A warrant was at once obtained for the purchaser, who was also brought up. He denied any knowledge of its being stolen, out as he proved himself an expert as regards the buying and selling of such articles it was evident that he knew at the time he offered the man a \$10 bill for it that it was worth at least six times as much. The prisoner avowed that he knew it to be stolen. The Judge said it was evident that such things must be stopped, and he had determined to hold the thieves and the receiver in default of \$2,000 each.

NEW YORK CITY.

A committee of the medical board of the Eastern Dispensary was appointed last evening to memoriadze the Legislature and confer with the Medico-legal Society and medical associations as to the passage of a law for the punishment of abortionists.

Daniel G. Murphy and Charles A. Smith are friends. Daniel went into John Doody's, 185 Cherry street, where Smith boards, and asked for the key of his friend Smith's room. It was delivered to him, and when Smith came home he found his cont and two vests missing. Murphy was arrested and held to answer by Judge Scott yesterday.

At the close of the fair of the Church of the Strangers a circular will be issued announcing the arti-

Colonel Budke, Third regiment N. G. S. N. Y., was on Wednesday evening last made the recipient, at the hands of the officers of his command, of a handsome diamond cluster pin, in commemoration of his connection with the regiment for the twentieth year and as a token of esteem on the part of his com-mand. A collation wound up the ceremony of pre-sentation.

The friends of Sigel and Shandley made some queer bets. For instance, a certain Mr. H. Abel vagered a Mr. P. O'Connor that he would ride him, seated in a handcart, through the Eighth ward if sigel was not elected Register, Mr. O'Connor to do him the same good turn in case Mr. Shandley was defeated. On Thursday Mr. O'Connor proceeded to fill out the wager, and created a large amount of fun by hauling Mr. Abet through the principal streets of the Eighth ward, to the amusement of their friends and the people along the ronte.

Coroner Keenan was vesterday called to 235 East Fortieth street, to hold an inquest over the remains of Mr. Henry Schoffeld, who died at half-past two o'clock in the morning. On Wednesday afternoon o'clock in the morning. On Wednesday afternoon Mr. Schoneld was out riding with his partner, Mr. Smith, and in driving his horse, a spirited animal, around the corner of 124th street and Sixth avenue the carriage upset and threw them out. Mr. Schoneld received terrible injuries to the head and side, which resulted in his death. Deceased was thirty-two years of age and a native of Stamford Conn.

A bet of a novel character, made on the last elec-tion as to the result of the Assembly Fifth district, was paid on Thursday, Mr. John Kerrigan agreeing if Mr. Chris. Johnson was not elected, to wheel Mr. if Mr. Chris. Johnson was not elected, to wheel ar. George Downer in a wheelbarrow or handcart through the principal streets of the Eighth ward, Downer to carry an American flag in his hand over the entire route, Downer to do the same for Kerrigan in case of Johnson being elected. Mr. D. S. Paige being elected, Mr. Kerrigan proceeded to pay the bet, and, to the anusement of his many friends with the public along the route named, accomplished and the public along the route named, acc the feat in good style.

THE FIGHTING FREEHOLDERS.

A Lively Scene in the Meeting Room of the

Hudson County, N. J., Freeholders.

The latest scene enacted at the meeting of the
Board of Chosen Freeholders of Hudson county, N. J., proved the wisdom of the Supreme Court in putting an end to the term of that junta, as pub-lished in yesterday's HERALD. Several members of the Board rendered tnemselves amenable to the law by not only being concerned in contracts, but in actually furnishing all the articles required in the institutions under their management. In fact, the Board was a "ring" within which few outsiders could gain admission, even in those cases where the law provides for iree competition.

At the meeting on Thursday the question of giving out the contract for the construction of two culverts on the Bull's Ferry road was taken up. Mr. Wilson, chairman or the committee, stated that the committee, during his absence, took up four bids an I had them read and land on the table. On the afternoon of the same day another bid was found lying on his desk, and on opening it he found it to be lower by \$250 than any of the others. The committee accordingly awarded the contract to this party. This announcement took the Board completely by surprise and several members arose and denounced the proceeding. One of the members, named Platt, however, backed up Wilson, but was completely squelched by Mr. Nu gent, who regarded the action of the committee as unjustifiable, and he moved that the Board reverse the action of the committee.

Platt thereupon arose and characterized the remarks of Mr. Nugent as "checky," and Mr. Nugent redorted. The scene which followed was one of excitement, and the udwarrantable action of the committee was finally confirmed. The Bounsted "ring" never did anything worse. Board was a "ring" within which few outsiders

SPAIN AND CUBA.

The Cuban Debt and How Spain . Proposes to Meet It.

Treasury Bonds of the Island of Cuba-The Proposed Bill Under the Consideration of the Cortes-How the Government Intends to Streng hen the Sinews of War.

MADRID, Oct. 23, 1871. Senor Balaguer, the new Colonial Minister, has laid on the table of the Spanish Congress a bill for 100,000 bonds of the Treasury of Cuba of \$500 each, at eight per cent interest, to be substituted for the notes it has emitted on account of the government for the maintenance of the war. The war subsidy their redemption during a period of eighteen years. As the bill and its preamble throw much light on Cuban finance I give you them in full. Whether this project will ever become law has yet to be seen. The existing Cortes are not sure of life long enough to insure its discussion and a vote upon it.

From the preamble to tue bill I make the follow-

Ing extract:—

WHAT THE FINANCE MINISTER PROPOSES.

The Minister who subscribes has therefore formed the annexed bill, which he has the honor to submit to the deliberation of the Cortes. The majority of the representatives of the island riches, the Contey of Administration and the Intendencia General of the Haclenda of Cuba have approved of it, and the bank has consecuted to it.

It consists in an emission of bonds of the Trestarry of the Island of Cuba—a total vains of \$55,000,000, bearing interest at eight per cent per annum, resemancie in eighteen years, out of the war tax, which will be exclusively devoted to the purpose, and by other resources it necessary.

With this quantity of \$50,000,000 there will be extinguished the old debts the intendencia of the island has contracted with the bank, but not without the previous liquidation by that establishment of the account it has with the Public Cayas for the collection of taxes. The bank notes emitted on good account will be withdrawn from circulation in the time and manner counselied by prusence, so as not to cause violent perturbations in the market, and the remainder, which will amount to a little more than \$10,000,000, will afford resources to the Treasury to meet the expenses the war may yet cost before the complete annimilation of the remains of the insurrection.

These ideas are expressed in the bill. The wisdom of the Cortes, after due examination, will give the best solution, which its awaited with impatience on the other site of the sea by those good Spaniaria who, at the risk of their lives, pursue the enemies of the country in their rugged fastnesses and imperil the fortune of their children to mannam the honor of our fing and the integrity of the territory.

Madein, Oct. 19 1871.

Next follows

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THE EILL.

ARTICLE 1.—The Minister of Ultramar is authtrized to direct the emission of \$55,000.0.0 in 100,000 bonus in double taions, payable to bearer, or \$500 each, under the name of "Treasury Bonus of the Island of Cuna," bearing eight per cent annual interest, redeemable by lots, under the guarantee of the Public Cajas of the Island of Cuba and the Rational Treasury of \$9ain.

ART. 2.—The emission shall be verified by the Intendences of Cuba, with the intervention of a commission consisting of two proprietors or hacientaides elected by the City Council of Havana, two come cannets or industriate designed by the Junta de Comercio, and one member of the governing Junta of the Baney Espanoi de la tiavana. One of the taions of the hon a will remain with the Intendencia and the other with the bank for purposes of comparison and identification. Next follows

Junta de Comercio, and one member of the governing Junta of the Bano- Espanoi de la Havana. One of the tations of the bon's will remain with the Intendencia and the other with the bank for purposes of comparison and identification.

ART. 3.—The Banco Espanoi of Havana, previous to a definite liquidation of its account with the Treasury, will receive in guarantee of its debits against the Intendencia of Cuna a sufficient number of the \$500 bonds to cover the net amount of said debits and of its emissions of notes on government account up to the day on which the emission is verified. The rest of the bonds created by this law will be deposited in a reserved cash box of the Treasury of the Hadelado, and they too will pass into the hands of the bank as the latter delivers to the Treasury of the Galendo, and they too will pass into the hands of the bank as the latter delivers to the Treasury of the facility of the state of war, up to the total of the \$50,000,000. But the bank may not dispose of the said bonds except in the form expressed in the next article, and those which remain in guarantee will not receive interest determined in that article and the second 1873, and \$15,000,000 for the time distract of eight per cent, from the lat of January of the year corresponding to its transfer, and taking part in the lottery of redemption at the end of the respective year, and the succeeding one in the form as expressed below.

ART, 6.—To intervene in the operations the bank next particles and the end of the respective year, and the said bonds are not valid.

every year according to the preceding articles must be published folically, and without this requisite the said bonds are not valid.

Art. 5.—To intervene in the operations the bank needs to practise for the effect of the dispositions of this law. The representative of the bank in the commission reterred to in article 2 will be replaced by a representative of the Public Hactenda nominated by the Minister of Ultramar. This commission will be permanent until the complete extinction of the debt, and the said Minister will fix its attributes, duties and responsibilities.

Art. 7.—The bonds will be redeemed at par by drawings, which will take place on the 15th of November of each year, in accordance with the adjounct; and the capital of the successful bonds in each year will be puid by the Banco Expand of Havana, together with its second half-yearly interest, within the month of January following.

Art. 8.—For the payment of the interest and sinking fund of the \$55,000,000 emitted by virtue of this law there is desirted the war tax aiready established in the laised of Cuba, and whose amount is estimated at \$5,000,000 annually. This product, which cannot be distracted from its apecial object, will be reserved in special caja by the Treasury of the Hacianda for cellery to the bank in monthly payments. The Minister of Ultramar will take care to regulate this impost so that the cash receipts shall not be less in any year than the product indicated until the termination of the redemption.

Art. 9.—The bonds emitted will be kept in Havana. The interest accruing, according to article 4 and the annexed will be paid by the bank each six months, maturing 30th of June and 31st December in each year. The government may, however, authorize these bonds to be kept outside of the Island, provided always that the amortization of the capital and payment of the interest does not make any addition to the debt.

Art. 10.—In case that the net receipts of the war tax in

the debt.

ART, 10.—In case that the net receipts of the war tax in any year abould not reach the sum of \$5,000,000 the's Treasury of the Hacienda of the Island will complete this amount. The bank in the middle of November will give due notice to the intendencia to have at its disposition the quantity of the deficit, so that a prudential collection may be inade in the two last months of the year without prejudic to the corresponding iquidation at the end of the same.

ART, IL.—The Banco Espand of its vana will exchange the

Macrid.

Aux. 12.—The bonds redeemed by lottery every year will be cancelled in the presence of the interested and of the interested and of the intervening commission of article 8, and delivered by the bank to the Intendencia, who will proceed with them as with the to the Intendencia, who will proceed with them as with the notes.

ART, 13.—The Cajas of Havana will defray the confection of the bonds out of the war tax, and the bank cannot reclaim other charges for placing or commission.

ART, 14.—The Cajas of the Island may recoup the annual supplements made to the bank to cover the deficit of the war tax—in the first place with the excess of other years beyond the \$6,000,000, and in its defect prolonging the levying of the said tax for the time necessary for a total recoupment, with the approbation of the covernment.

ART, 15.—The bonds emitted by virtue of this law will be admitted for their full value in payment of deposits as guarantees of contracts or public services. The interested will receive the test of said bonds, and should any of them be successful in the drawings they shall be replaced in the deposits by others, or with the cash they have produced.

ART, 16.—The bonds will also be admitted in payment of purchases of State property, and from that moment be redeemed.

deemed.

ART. 17.—The Minister or Ultramar is authorized to set apart a larger sum than provided in this law for the annual redemptions, if the excess of the revenues over the necessities of the Freaury permit.

ART. 18.—The Minister of Ultramar will see to the carrying out of this law.

MADRID, Oct. 19, 1871.

OPERATIONS OF THIS LAW.

OPERATIONS OF THIS LAW.
First emission, 40,000 bonds of \$600 (pesos

fuertes).
Second emission, 30,000 bonds of \$500.
Third emission, 30,000 bonds of \$500.
Interest eight per cent.

EXECUTIVE CLEMENCY. Four Prisoners Pardoned from the Auburs Penitentiary by Governor Hoffman. ALBANY, Nov. 10, 1871. Governor Hoffman has granted pardons as fol-

Benjamin Teachout, who was convicted of poise ing his wife in Wycoming county, in this State, in September, 1869. Circumstances have transpired since the conviction which lead to the belief that the prisoner was not really guilty of the offence. Teachout has grown much enfeebled in mind and

Teachout has grown much enfeebled in mind and body since his incarceration at Auburn and cannot live much longer. The pardon was handed Teachout's daughter to-day.

To Thomas Bates, of Oswego county, sentenced to Auburn last January for seduction under promise of marriage. The conviction is said to have been erroneous, the prisoner being innocent.

To John Moran, sentenced in September, 1869, in Lewis county, for forgery. Since the prisoner's confinement he has behaved himself m an excellent manner, and carned enough money by overwork to repay the person wronged by his forgery. The pardon was granted at the request of many leading citizens of the county.

To James Lynn, sentenced in Eric county October, 1869, to five years at Auburn, for robbery.

Colonel John E. Smith, of the Pourteenth infantry, has been ordered to Washington for conference on Indian affairs. The President has accepted the resignation of Can-

tain Alexander S. Charke, of the Fifth cavalry; and Lieutenant Happy, of the Ninth infantry, has been retired on account of long and faithful service and wounds received therein.

Major George D. Ruggies, Assistant Adjutant General, has been ordered to report for duty to the Commanding General of the Department of Texas, to relieve Major H. Clay, who has been ordered to Portland, Oregon. tain Alexander S. Clarke, of the Fifth cavalry; and

NAVAL INTELLIGENCE.

Passed Assistant Paymaster Henry Gerrard is detached from duty as naval storekeeper at Key West